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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,285	03/03/2004	Linn D. Wanbaugh	066044-2026	8958
36822	7590	03/09/2006	EXAMINER	
GORDON & JACOBSON, P.C. 60 LONG RIDGE ROAD SUITE 407 STAMFORD, CT 06902			HOGAN, JAMES SEAN	
			ART UNIT	PAPER NUMBER
			3752	

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/791,285	<b>Applicant(s)</b> WANBAUGH ET AL.	
	<b>Examiner</b> James S. Hogan	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,7-12,16-20 and 45 is/are rejected.
- 7) ☒ Claim(s) 2,3,6 and 13-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments with respect to claims 1,4,5,7-12 and 16-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

Claims 1, 4, 5, 7-12, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,554,211 to Prueter et al in view of U.S. Patent Application US 2003/0052194 to Streutker et al. and further in view of U.S. Patent Application US 2005/0133624 to Hornsby et al.

Regarding claim 1, 5, 7-12,16-20, Prueter et al. ('211) teaches a manually operated sprayer for a container of liquid to be sprayed (14), having, variable volume pump means (32) having liquid inlet (34) means for connecting the pump means with liquid in the container, outlet means (28) connecting the pump means with a discharge opening, a manual actuator (24) for activating the pump means for pumping liquid from the container through the outlet means and the discharge opening, and valves for venting (33). Prueter et al. ('211) does not teach a control module having spring biased product and vent valves. Hornsby et al. ('624) teaches a manually operated sprayer with a spring biased vent valve (78) in an embodiment found in Figure 4. Streutker et al. ('194) teaches a control module (numbers 72, 44, 52, and 32) having product (72) and vent (32) valves being simultaneously reciprocal by means of an actuator for venting and/or product dispensing purposes (page 2, paragraph 23, lines 8–16). As per claim 4, it would have been obvious to one having ordinary skill in the art at the time the

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invention was made to have created product and vent valves of a single structure, since it has been found the at forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. Howard vs. Detroit Stove Works, 150 U.S. 164 (1893). As per claim 5, the product and vent valves are formed of a plurality of components fitted together. As per claims 7 and 16, the actuator of Prueter et al. ('211) first operates a pump before actuating the vent valves (page 2, paragraph 20, lines 22-28). As per claims 8 and 17 Prueter et al. ('211) teaches first and second protrusions (31 and 35) for operating a switch for engaging motor means and thereafter opening vent valves (Col 3, lines 25-31). As per claims 9, 11, 18, and 20 the actuator of Prueter et al. ('211) comprises a trigger lever (14) that returns to a relaxed position. As per claim 10 and 20, the sprayer of Prueter et al. ('211) includes an electric motor (23) for operating the pump and batteries (26) for operating the motor. It would have been obvious to one skilled in the art at the time the invention was made to have substituted the control module of Streutker et al. ('194) having product and vent valves being of the spring-biased type of valve taught by Hornsby et al. ('624) in the in the spray device of Prueter et al. ('211) in order to create a spray device that can be operated in any position without the need of gravity to close any valves.

***Allowable Subject Matter***

Claims 2, 3, 6 and 13-15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH  
2/14/2006

  
**David A. Scherbel**  
**Supervisory Patent Examiner**  
**Group 3700**